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**SF 2061** – Indigent Defense in Cases of Possible Imprisonment (LSB5139SV.1)  
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Fiscal Note Version – As amended and passed by the House

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### **Description**

**Senate File 2061**, as amended and passed by the House, requires the State Public Defender to coordinate the representation of indigent persons under arrest or charged with a crime and facing the possibility of imprisonment under the applicable criminal statute or ordinance. The bill does not require the appointment of an attorney for an indigent person if the indigent person does not request the appointment of an attorney or waives the right to an appointed attorney.

House amendment **S-5093** requires the State Public Defender to seek reimbursement for the compensation and expenses paid from the Indigent Defense Fund for the defense of an indigent person that violates a local ordinance and faces the possibility of imprisonment. The Office of the State Public Defender must seek reimbursement from the political subdivision of the state that was the plaintiff in the case.

### **Background**

The State Public Defender currently provides representation for indigent persons for misdemeanors if there is a potential for a jail sentence.

In *State v. Young*, 863 N.W.2d 249 (Iowa 2015), the Iowa Supreme Court held, as a matter of Iowa constitutional law, an indigent person charged with a crime and facing the possibility of imprisonment under the applicable criminal statute has the right to court appointed counsel, including simple misdemeanor offenses. **Senate File 2061** codifies the holding of *State v. Young*.

### **Assumptions**

- The rate of increase in the number of attorneys appointed by the court in stand-alone simple misdemeanor cases between July 1, 2015, and the end of calendar year 2015, will remain the same in the future.
- The average cost of representation of those indigents charged with stand-alone misdemeanor offenses will remain the same as it was during the first half of FY 2016.

### **Fiscal Impact**

**SF 2061** has no fiscal impact since it codifies the holding of *State v. Young*. However, the holding in *State v. Young* has had an impact, and will continue to have an impact by increasing the number of indigent persons that receive a court-appointed attorney in stand-alone misdemeanor cases. From July 1, 2015, through January 8, 2016, the cost of representation for indigents in stand-alone misdemeanors increased by \$219,484. Annualizing this increase to the Indigent Defense Fund results in an increase of approximately \$440,000 per year going forward.

House amendment **S-5093** will reduce the fiscal impact of *State v. Young* on the Indigent Defense Fund. The reduction is estimated to be relatively small, approximately \$30,000 per year. The table below summarizes claims to the Indigent Defense Fund for city ordinance violations over the past five years:

<b>City Criminal Violation Claims</b>		
<b><u>Fiscal Year</u></b>	<b><u>Claims</u></b>	<b><u>Cost</u></b>
2015	142	\$ 29,700
2014	105	21,000
2013	67	14,000
2012	52	11,900
2011	71	16,100

It should be noted that the Office of the State Public Defender is expected to incur some additional administrative costs from collecting the reimbursements from the political subdivisions, but those costs are estimated to be less than \$5,000 per year.

**Source**

Office of the State Public Defender

/s/ Holly M. Lyons

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The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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